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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,692	09/19/2003	Dean L. McClymonds	13.27461	4706
25208	7590	08/25/2005	EXAMINER	
JOHN W JORDAN IV GACA MATIS BAUM & RIZZA FOUR GATEWAY CENTER, 444 LIBERTY AVENUE SUITE 300 PITTSBURGH, PA 15222			TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/664,692	Applicant(s) MCCLYMONDS, DEAN L.	
	Examiner Alicia M. Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell et al. 6,609,356 in view of Keller 3,800,902 and Cartner 4,445,312.

In regard to claim 3, Fackrell discloses a mowing device comprising:

- A frame (14, 16)
- A first pair of ground wheels (165, 168) mounted on the right
- A second pair of ground wheels (165, 167) mounted on the left
- Means (132) for controlling the speed and direction of rotation of the first pair of ground wheels (165, 168) comprising a first motor mounted on the right
- Means (128) for controlling the speed and direction of rotation of the second pair of ground wheels (165, 167) independent of the speed and direction of rotation of the first pair of ground wheels (165, 168) comprising a second motor mounted on the left
- A deck (11) vertically adjustably attached to the frame (14, 16)
- A vegetation cutting blade (178) rotatably attached to the deck (11).

However, Fackrell fails to disclose wherein the means for controlling the speed and direction of rotation of the first pair of ground wheels and the right motor are remotely controllable,

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Wherein the means for controlling the speed and direction of rotation of the second pair of ground wheels and the left motor are remotely controllable;

including a retractable segment and remote control means for raising and lower the retractable segment.

Keller discloses a traditional user operated lawnmower that has been converted to remote control.

Cartner discloses a mower with a retractable segment (80) that can be raised and lowered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Keller for the speed and direction control and retractable segment control of the mowing device of Fackrell in order to relieve physical exertion and discomfort.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the retractable segment of Cartner on the device of Fackrell in order to provide a way escape obstructions.

Furthermore, it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

Response to Arguments

3. Applicant's arguments with respect to claim 3 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

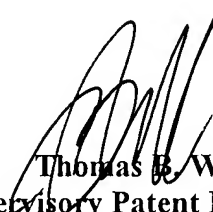
4. Claims 7-10 are allowed.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
August 18, 2005